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REPORT  
No. 1530

## MRS. VIRGINIA LEE SAGE

JUNE 8, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H.R. 3242]

The Committee on the Judiciary, to which was referred the bill (H.R. 3242) for the relief of Mrs. Virginia Lee Sage, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

#### PURPOSE

The purpose of the bill is to relieve Mrs. Virginia Lee Sage, of Richmond, Va., of all liability to repay to the United States the sum of \$3,200 which was erroneously paid to her by the Department of the Army as an allotment of \$50 per month as the result of an allotment made by her former husband prior to his discharge from the Army.

#### STATEMENT

The Department of the Army has no objection to the enactment of the bill.

In its favorable report on the bill the Committee on the Judiciary of the House of Representatives has commented—

While he was on active duty with the Army during World War II, Capt. Alfred George Sage initiated a class E voluntary allotment of \$50 per month in favor of his wife, Mrs. Virginia Lee Sage. This allotment was made effective March

1, 1942. On October 1, 1942, Captain Sage tendered his resignation for the good of the service. His resignation was accepted by the War Department, and he was relieved from active duty effective November 17, 1942.

The report of the Department of the Army which was submitted to the committee in connection with this bill indicates that Mrs. Sage last heard from her husband while he was on wartime duty with the Army. She was completely unaware of the fact that he was separated from the Army until she received a letter from the Army Finance Center dated March 29, 1948, advising her of that fact. The whereabouts of former Captain Sage remain unknown. The Army stated in its report that extensive efforts by the department to locate him, including inquiries of relatives and a bank formerly utilized by him, were unavailing. Further, the Army has found that the allotment overpayments were made through administrative error on its part, and not through any fault on the part of Mrs. Sage who accepted them in good faith.

The Army has noted that under the law it is clear that the recipient is required to repay erroneous payments, and this is obviously why Mrs. Sage has sought legislative relief. The Comptroller General noted this situation concerning the liability to repay such amounts, and states that the General Accounting Office has no authority to remit or waive the recovery of the indebtedness. The Comptroller General questions relief on the ground that it would be preferential to grant relief in one case. However, the Department of the Army states that it has not opposed private relief in cases such as this where individuals have accepted payments in good faith and undue hardship would result should repayment be required.

During the period that Mrs. Sage received the erroneous payments she received no other financial support from her husband since he had deserted her and her two boys. She was forced to secure employment with the city government of Richmond, Va., and had a difficult time securing the money with which to provide for herself and her young sons. The Department of the Army has looked into her current financial situation and concluded that in view of the demonstrated hardship it would interpose no objection to relief as provided in this bill. Its statement in this connection in its report is:

"It is therefore the view of this department that a proper case of hardship exists, and no objection is interposed to the enactment of private relief legislation in this case."

In 1958 Mrs. Sage's adjusted gross income was less than \$300 a month. The Army report observes that she has been called upon to assist her sons financially in their efforts to become established even though they are no longer fully dependent upon her for their support. If Mrs. Sage is required to repay the \$3,200 it would virtually exhaust her entire life savings which were accumulated over the years under difficult and trying circumstances.

In view of the fact that the payments were received in good faith and the requirement for repayment would result in undue hardship the committee recommends passage of this legislation.

The Comptroller General of the United States has commented that his office does not view with favor legislation which grants preferential treatment to an individual over other individuals similarly situated and that many individuals have unknowingly and in good faith received erroneous payments made through administrative error and have been required to refund the erroneous payments, and that accordingly his Office does not recommend favorable consideration of the bill.

The committee notes, however, that in this case the claimant received the payments in good faith, the error was on the part of the Government, and repayment would work a burdensome hardship on the claimant. In these circumstances the committee has favorably recommended relief by private legislation in the past.

The committee believes that in the circumstances this is a proper case for legislative relief and accordingly recommends the bill favorably.

Attached and made a part of this report are (1) a letter, dated July 11, 1959, from the Department of the Army, and (2) a letter, dated February 10, 1959, from the Comptroller General of the United States.

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DEPARTMENT OF THE ARMY,  
*Washington, D.C., July 11, 1959.*

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 3242, 86th Congress, a bill for the relief of Mrs. Virginia Lee Sage.

This bill provides as follows:

"That Mrs. Virginia Lee Sage, Richmond, Virginia, is hereby relieved of all liability to repay to the United States the sum of \$3,200, which was erroneously paid to her by the Department of the Army as an allotment of \$50 per month between October 31, 1942, and March 1, 1948, pursuant to an application of her former husband, Alfred G. Sage, formerly an officer in the Army of the United States who was discharged on November 17, 1942. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act."

The Department of the Army interposes no objection to the above-mentioned bill.

Records of this Department show that Alfred George Sage was born on September 2, 1901, in Englewood Cliffs, N.J. On May 24, 1940, he entered on active duty as a first lieutenant, Army of the United States, and was promoted to a captain, Army of the United States, on September 4, 1941. His records also reflect that he was then married to Mrs. Alfred G. Sage, who is presumably the same

person as Mrs. Virginia Lee Sage, the beneficiary of this bill. On October 1, 1942, Captain Sage tendered his resignation for the good of the service, which was accepted by the War Department (now Department of the Army) and he was relieved from active duty effective November 17, 1942, by order by the Secretary of War (now Secretary of the Army).

Prior to his relief from active duty, as noted above, Captain Sage initiated a class E (voluntary) allotment of \$50 per month, effective March 1, 1942, in favor of Mrs. Virginia Lee Sage. It appears that Mrs. Sage has never seen or heard from him since, and was completely unaware of his separation from the service until she received the following letter of March 29, 1948, from the Army Finance Center:

"Reference is made to class E allotment in your favor, authorized by Alfred G. Sage, Army serial No. O291229.

"Records of this office show above allotment in the amount of \$50 effective March 1, 1942 was paid through February 29, 1948 and discontinued that date.

"This office is in receipt of a notice to the effect that the officer was relieved from active duty November 17, 1942, and that the final deduction on account of this allotment was made for the month of October 1942. This constitutes an overpayment in the amount of thirty-two hundred dollars (\$3,200).

"Refund of the overpayment may be made by a personal check or bank draft made payable to the 'Treasurer of the United States' and forwarded to the Finance Officer, St. Louis Finance Office, U.S. Army, 4300 Goodfellow Boulevard, St. Louis 20, Missouri, in the enclosed envelope, which requires no postage."

Mrs. Sage, by a letter of April 12, 1948, responded as follows:

"Your letter dated March 29th advising my former husband, Alfred G. Sage, Army serial No. O291229 was relieved from active duty the 17th of November 1942 is a great surprise to me, and your letter is the first and only advice I have had to this effect. I cannot recall the last time I have heard from him, but it was certainly some time before the allotment was made.

"I do not want anything that does not belong to me but with the \$50 per month allotment I have had to scheme in every way possible to make a living and send my two boys, who are now 13 and 15 years of age, to school. I work for the city of Richmond, doing playground work and my salary is \$130.96 per month. My youngest son carries the evening paper. My oldest son is not employed at the present time because he has a terrible case of asthma and is not able to work. My problem now is how I am going to get along without the \$50 per month allotment, and I am certainly not in a position to return any part of the \$3,200 overpayment, as much as I would like to do so. I cannot understand why payments were made through the 29th of February 1948 when you say Mr. Sage was relieved from active duty the 17th of November 1942."

Despite extensive efforts on the part of this Department to locate Mr. Sage, including inquiries of relatives and a bank formerly utilized by him, his whereabouts remain unknown. The overpayments in question were made due to the administrative error of this Department, and not through any fault on the part of Mrs. Sage, who accepted the same in good faith. However, it is well settled that a



recipient of such erroneous payments is legally bound to repay the same to the United States. In this respect, the Department of the Army has not opposed private relief legislation to relieve individuals of such liability, where it appears that they accepted the erroneous payments in good faith and that undue hardship would result should repayment be required. On March 16, 1959, inquiry was made of the beneficiary of this bill concerning her current financial situation. From the duly notarized statements submitted by her in response thereto, it has been elicited that her sons are now married and, although not technically dependents, she is frequently called upon to assist them financially in their efforts to become established. A copy of her 1958 Federal income tax return reveals that her adjusted gross income for that year was less than \$300 per month. To now require her to pay the United States the sum of \$3,200 would virtually exhaust her entire life savings, accumulated over the years under difficult and trying circumstances. It is therefore the view of this Department that a proper case of hardship exists, and no objection is interposed to the enactment of private relief legislation in this case.

This bill, if enacted, will involve no expenditure of Federal funds, but would relieve the beneficiary of all liability to repay the sum of \$3,200 to the United States.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,  
*Secretary of the Army.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, February 10, 1959.*

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives.*

DEAR MR. CHAIRMAN: Your letter of January 28, 1959, acknowledged January 29, requests our comments on H.R. 3242 for the relief of Mrs. Virginia Lee Sage.

Our records show that Mrs. Sage was paid an allotment of \$50 a month from March 1, 1942, through February 29, 1948, pursuant to the application of her formed husband, Alfred G. Sage, while he was on active duty as an officer in the Army of the United States. The officer was discharged on November 17, 1942, and payment of the allotment to Mrs. Sage should have been stopped effective October 31, 1942. All the allotment payments received by Mrs. Sage from November 1942 through February 1948 were erroneous and resulted in a total allotment overpayment to her of \$3,200. Since the erroneous payments were made after the officer was discharged and he was not at fault, the payee, Mrs. Sage is legally liable to refund the total overpayment of \$3,200. H.R. 3242 would relieve her of this liability.

On the record before us it appears that the overpayments in this case are attributable largely to administrative error. It is well established, however, that the United States cannot be barred or estopped by erroneous payments made through administrative error by its officers and parties receiving such payments acquire no right to them

and are liable in equity and good conscience to refund them. See *Barnes et al. v. District of Columbia* (22 C. Cls. 366); the cases collected and discussed in *United States v. Sutton Chemical Co.* (11 F. 2d 24, and 63 A.L.R. 1346); *United States v. Bentley* (107 F. 2d 382); *United States v. Dorgan* (157 F. Supp. 864). Hence, the United States legally is entitled to collect the \$3,200 due in this case and we have no authority to remit or waive the recovery of this indebtedness.

We do not view with favor legislation which grants preferential treatment to an individual over other individuals similarly situated. Many individuals have unknowingly and in good faith received erroneous payments made through administrative error and have been required to refund the erroneous payments. Hence, we do not recommend favorable consideration of H.R. 3242.

Sincerely yours,

JOSEPH CAMPBELL,  
*Comptroller General of the United States.*

